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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,639	04/15/2004	James Donald Koskey JR.	KHI-0401	9016
25007	7590	10/06/2005	EXAMINER	
LAW OFFICE OF DALE B. HALLING, LLC 655 SOUTHPOINTE COURT, SUITE 100 COLORADO SPRINGS, CO 80906			FASTOVSKY, LEONID M	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/825,639

Applicant(s)

KOSKEY, JAMES DONALD

Examiner

Leonid M. Fastovsky

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 11 July 2005.
2a) This action is FINAL. 2b) This action is non-final.
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-12 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
10) The drawing(s) filed on 15 April 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Park (2004/0195227).

Park discloses an electrical heating cushion 40 that is inherently usable also as a heated pet mat, comprising an inherently sealed covering - two protecting layers 50 and 60 made of PVC (Page 2, [0039] [0041]), the covering is inherently fire retardant since applicant uses the same material, and resistive heating element 20 sandwiched between the two layers. Further, Park discloses that the cushion has a shape of a truncated circle or semicircle (Fig. 2 and 4).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1- 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park (2004/0195227).

Park discloses substantially the claimed invention. However, Park is silent about how the two layers 50 and 60 are placed together. It would have been obvious to one having ordinary skill in the art to modify Park's invention to make the cushion folded in half to form two layers sealed together in order to enhance the process of making the cushion and reduce cost.

As for claim 6, it would be obvious to make a width of the truncated circle 10% shorter than a radius as a matter of design choice in order to obtain result wanted by user.

As for claims 3 and 9, it would be obvious to modify Park's invention to include the covering made of styrene plastic as an obvious functional equivalent.

5. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Park in view of Graflind and further in view of McCann.

Park discloses substantially the claimed invention including the flat-foil heating element 20, but does not disclose two foils and that the heating element includes a heating wire.

Graflind discloses a heating pad having several heating foils 11-18 and McCann discloses a radiant heating pad having a heating element comprising a foil 17 and a heating wire 14. It would have been obvious to one having ordinary skill in the art to modify the invention of Park to include a second heating foil as taught by Graflind and a heating wire in the heating element as taught by McCann in order to make the heating structure of the pad-mat more durable.

Response to Arguments

6. Applicant's arguments filed 7/11/05 have been fully considered but they are not persuasive. Park discloses a cushion 40, shown in Fig. 2, that is definitely having a shape of a truncated circle or semicircle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 571-272-4778. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lmf


Leonid M. Fastovsky
Primary Examiner


Leonid M Fastovsky
Examiner
Art Unit 3742

9/29/05